lading by connecting carriers puts them in the same position as if they had expressly agreed to establish through routes. *Cincinnati, etc., Ry. Co.* v. *Interstate Com. Com.*, 162 U. S. 184; see *Louisville, etc., Ry. Co.* v. *Behlmer*, 175 U. S. 648, 662. This ruling of the Interstate Commerce Commissioners applies to the class of routes thus created the rule that the sum of the charges of each carrier must be a unit corresponding to a single established joint rate. Their holding, that the rate as fixed at the time of shipment is unalterable by the second carrier, will tend to relieve the shipper from unexpected increase in freight charges, and furthermore, to remove an uncertainty that lately has much troubled shippers and carriers when similar changes in rates have been made.

CARRIERS — DUTY TO TRANSPORT AND DELIVER — REMOVAL OF SPUR TRACK WITHOUT NOTICE. — The defendant, as part of its public business, operated a spur track, over which it had carried wood for the plaintiff. This operation was not required by statute or charter. The plaintiff had wood ready for transportation, some of which was already in the custody of the defendant when the latter removed the track without notice. *Held*, that the plaintiff can recover for the damage caused by the failure to give reasonable notice of the removal. *Durden* v. *Southern Ry. Co.*, 58 S. E. 299 (Ga., Ct. App.).

The defendant's duties were only those imposed by the common law, and its right to remove the track seems well established. *Jones* v. *Newport News, etc., Co.*, 65 Fed. 736. But a common carrier is bound to carry according to its profession. *Pickford* v. *Grand Junction Ry.*, 8 M. & W. 372. It is liable for damages caused by the publication of a time-table it knows to be inaccurate. *Denton* v. *G. N. Ry.*, 5 E & B. 860. And the same principle that applies to representations published in a time-table seems applicable to representations of a carrier made public by its acts. Consequently, if the defendant, while it maintained the track, had refused without notice or valid reason to carry wood for the plaintiff, it would have been liable for the resulting damage. *Streeter* v. *Horlock*, 7 Moore C. P. 283. Usually the carrier is not liable unless the goods have been tendered. *Little Rock, etc., Ry.* v. *Conaster*, 61 Ark. 560. But this does not apply where part of the goods have been tendered. *Houston, etc., Ry.* v. *Campbell*, 91 Tex. 551. Therefore, in the present case, by failing to give notice before removing the siding, the railroad refused to carry a tendered shipment according to its profession and should be liable for the resulting damage.

CONFLICT OF LAWS — OBLIGATIONS EX DELICTO — WHETHER LAW OF PLACE OF DEATH OR OF INJURY GOVERNS ACTION FOR DEATH. — The Pennsylvania statute gave the widow a right of action for death by wrongful act. The New Jersey statute vested such a right in the personal representative. A widow whose husband had died in Pennsylvania from injuries received in New Jersey, through the negligence of the defendant, brought suit. *Held*, that she may recover under the Pennsylvania statute. *Hoedmacher* v. *Lehigh Valley Ry. Co.*, 66 Atl. 975 (Pa.).

The fatal impact is somewhat arbitrarily selected as the element in murder giving criminal jurisdiction, regardless of the place of death. *State* v. *Gessert*, 21 Minn. 369. Likewise, where death results from negligent injury, it has been assumed that the cause of action arises where the injury, and not where the death, takes place. *Slater* v. *Mexican Nat'l Ry. Co.*, 194 U. S. 120, 127. If the statutes of the place of injury give no action, recovery is refused even if a remedial statute exists at the place of death. *De Harn* v. *Mexican Nat'l Ry. Co.*, 86 Tex. 68; *Rudiger* v. *Chicago, etc., Ry. Co.*, 94 Wis. 191. It is true that such statutes create a new right of action, to the accrual of which death is a condition precedent. See 15 HARV. L. REV. 854. The decisions cited, however, lead to the conclusion that while the prosecution for murder or civil action for death cannot be maintained until death occurs, the real cause of action is the infliction of the injury. The results of the injury merely determine the character of the action. But the law of the place where the cause of action accrues should govern, hence the present decision seems unsound.

CONFLICT OF LAWS — TESTAMENTARY SUCCESSION — ADMINISTRATION OF TRUSTS OF PERSONALTY CREATED BY WILL. — An Illinois testator be-

queathed a fund in trust for a married woman with a provision that during the lifetime of her husband she should receive only the interest. The trustee, the *cestui*, and the property were in Texas. By the law of Texas such restraint is enforceable; by the law of Illinois it is not. While her husband was still alive the *cestui* sued to get the corpus of the trust fund. *Held*, that the *cestui* cannot recover, since the administration of the trust is governed by the law of Texas. *Lanius* v. *Fletcher*, 101 S. W. 1076 (Tex., Sup. Ct.).

Questions of the administration of testamentary trusts of personalty are properly governed by the law of the place of administration. *Parkhurst* v. *Roy*, 7 Ont. App. 614; see 20 HARV. L. REV. 382, 393. The decision in the present case, however, was based, not on this sound ground, but on the theory that the law of Texas governed because it was the evident intention of the testator that it should govern. This is clearly a misconception. It is true that the testator's intention as to what law should govern may be of importance. Thus, in interpreting the meaning of a bequest, if the testator had in mind the law of another state, it will be construed by that law. *Harrison* v. *Nixon*, 9 Pet. (U. S.) 483, 504. Again, in cases where the place of administration is doubtful, the intention is important because it helps to determine that place, which would ordinarily be the domicile of the testator. *Cross* v. *U. S. Trust Co.*, 131 N. Y. 330; *Rosenbaum* v. *Garrett*, 57 N. J. Eq. 186. But to say that a trust, created and administered in the same state, could by the mere desire of the testator be governed by the laws of some foreign state, is to reduce the proposition relied on by the court to an absurdity.

CONSPIRACY — CRIMINAL LIABILITY — DAMAGE TO PERSON IN HIS TRADE OR CALLING. — In accordance with an agreement of theatre managers to exclude the complainant, a dramatic critic, from their play-houses, he was refused admission to certain performances. The sole motive of the theatre managers was to protect themselves from public articles reflecting on their personal integrity and on their religious faith. *Held*, that the agreement is not criminal under the Penal Code of New York. *People* v. *Flynn*, 189 N. Y. 180.

For a discussion of this case in the lower court, see 20 HARV. L. REV. 68.

CONSTITUTIONAL LAW — NATURE AND DEVELOPMENT OF CONSTITUTIONAL GOVERNMENT — STATE QUASI-SOVEREIGNTY. — The State of Georgia as quasi-sovereign sought to enjoin a Tennessee corporation from discharging noxious gases across the state line. It did not appear that an action at law would be an inadequate remedy, if it were an issue between private parties. *Held*, that if the defendant failed to abate the nuisance, an injunction should be granted. *Georgia* v. *Tennessee Copper Co.*, 206 U. S. 230. See NOTES, p. 132.

CONSTITUTIONAL LAW — POWERS OF CONGRESS — EXCLUSIVE FEDERAL CONTROL OVER NATIONAL BANKS. — § 5198 of the U. S. Compiled Statutes 1901 provides that, though a national bank knowingly charges a usurious rate of interest, the instrument shall not be void. N. Y. Laws 1837, c. 430, § 1, provides that all instruments charging a usurious rate shall be void; but N. Y. Laws 1892, c. 689, § 55, makes state banks subject to the same usury laws as national banks. A note was made by the defendant at a usurious rate to a payee not a bank. It was later bought at a legal rate by the plaintiff, a state bank. *Held*, that since Congress exercised its power of passing exclusive laws governing the effect of usury on national banks, as to such banks, and consequently as to state banks, the general usury law is superseded, and hence the note is enforceable. *Schlesinger* v. *Gilhooly*, 189 N. Y. 1. See NOTES, p. 136.

CONSTITUTIONAL LAW — POWERS OF THE JUDICIARY — INTERSTATE COMMON LAW. — Kansas filed a bill in the United States Supreme Court to restrain Colorado from using the waters of the Arkansas River for irrigation purposes. On the question as to what rule of decision should apply, Kansas contended that the common law rule of riparian ownership should control; Colorado, that on principles of international law controversies between states